

Kathleen Hartnett White, *Chairman*  
Larry R. Soward, *Commissioner*  
Martin A. Hubert, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 12, 2006

Jeffery D. Lochore  
Little Princess's Investment Company  
P.O. Box 1762  
Porter, Texas 77365

Tom Martin  
Crystal Springs Water Company, Inc.  
P.O. Box 603  
Porter, Texas 77365

Re: Proposed TPDES permit, Elan Development, L.P., WQ0014694001

Dear Mr. Lochore and Mr. Martin:

The Executive Director of TCEQ is in receipt of your contested case hearing requests on the above noted permit application. Unfortunately, the requests were not timely filed and the commissioners will be unable to consider them.

Mr. Lochore's request was received by the TCEQ's Office of the Chief Clerk on December 4, 2006 and Mr. Martin's on December 11, 2006. However, the comment period for this permit application ended on November 27, 2006 and the permit was posted for issuance on December 1, 2006. No public comments were received during the comment period.

The comment period began on June 21, 2006 when the applicant published its Notice of Intent to Obtain a Water Quality permit and ended on the date noted above, or 30 days after their Notice of Preliminary Decision was published on October 27, 2006. For your hearing requests to be considered by the commissioners, there must be public comments filed during the comment period and a hearing request filed either during the comment period or within 30 days after the Executive Director issues a written response to the comments received. In this case where no public comments are received during the comment period, there is no additional period of time when a contested case hearing may be requested.

However, to generally address the concerns in your letters, TCEQ's permit does not give the applicant the authorization to use another's property without their consent. When

CHIEF CLERK'S OFFICE

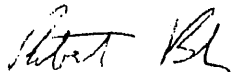
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deciding to issue a wastewater permit, TCEQ does not consider or adjudicate property right issues. However, it is the responsibility of the applicant to obtain all of the necessary property rights for operation of its proposed facility. In addition, the permit does not limit the ability to seek legal remedies against an applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

If you have any other questions about this matter you may contact me at 512-239-5600.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bob Brush", with a stylized flourish at the end.

Bob Brush  
TCEQ Staff Attorney